IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

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WRIT PETITION NO : 3206 of 1993

Between:

A. Narayana s/o Gangaram, aged about 39 years, working as Telephone Operator, Armoor, Nizamabad district

….. PETITIONER

AND

1. The District Collector and Magistrate, Nizamabad District, Nizamabad;
2. The Joint Collector and Additional Magistrate, Nizamabad District, Nizamabad;
3. The District Engineer, Telecommunications, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, especially one in the nature of Mandamus, (i) declaring the proceedings No. D6/12251/89, dt. 22.2.1993 of the Joint Collector and Additional Magistrate, Nizamabad District, Nizamabad as illegal, arbitrary and without jurisdiction and set aside the same and (ii) to pass such other order or orders.

Counsel for the Petitioner:MR.V.JOGAIAH SARMA

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

HON'BLE SRI JUSTICE BILAL NAZKI

W.P.NO. 3206 OF 1993

ORDER:

The petitioner in this writ petition challenges proceedings dt. 22.2.1993 of the Joint Collector and Additional Magistrate, Nizamabad District, Nizamabad-2nd respondent by which the caste certificate issued to the petitioner in 1978 was cancelled.

A show cause notice was issued to the petitioner on 31.11.1990 by the Collector, Nizamabad, signed by the Joint Collector, calling upon him to show cause why the caste certificate granted to him on 1.7.1988 should not be cancelled. The petitioner submitted his representation on 26.11.1990 requesting for supply of certain documents. The petitioner contends that even without supplying the documents, an order was passed on 12.2.1991 by the Joint Collector canceling the caste certificate. He filed a writ petition

being WP No. 9562 of 1991 questioning the proceedings dt. 12.2.1991 and it was allowed by the High Court on 30.9.1991. Again notices were issued to the petitioner who again filed a writ petition being W.P.No. 11756 of 1992. It was again allowed on 25.9.1992 directing the respondents to furnish copies of the documents mentioned in his letter dt. 11.8.1992. Those documents are,

1. Copy of the letter No. C/1920/89, dt. 7.12.1989 of the District Collector, Nizamabad;

2. Any evidence to show that our community not belongs to Kammara;

3. Any statement recorded from third party to show that we do not belong to Kammara Community;

4. Proceedings of the Enquiry conducted by the Revenue Divisional Officer;

5. Proceedings of the Enquiry conducted by the Mandal Revenue Officer.

Thereafter a memo was issued on 17.10.1992 by the District Collector informing the petitioner,

1. No such current bearing No. C/1920/89, dt. 7.12.1989 was issued by the Collector, Nizamabad;

2. Copy of Enquiry report of the Revenue Divisional Officer, Nizamabad District dt. 27.10.1990 is enclosed;

3. Copies of statements recorded by the revenue Divisional Officer, Nizamabad are enclosed;

4. Proceedings issued by the revenue Divisional Officer, Nizamabad. Copy of Enquiry Report of the Revenue Divisional Officer, Nizamabad is furnished as at B above;

5. No proceedings were issued by the Mandal Revenue Officer, Armoor;

Thereupon he submitted a representation to the said memo. The Joint Collector issued a memo posting the case for hearing on 11.2.1993 at 11.00 A.M. The petitioner's counsel was out station between 2.2.1993 and 11.2.1993 and he had returned only on the evening of 11.2.1993. The petitioner appeared and requested that the hearing be postponed. He was asked to leave the room for a minute and thereafter proceedings dt. 22.2.1993 were received by the petitioner denying hearing to the petitioner. Now the order of the respondents has been challenged mainly on two grounds (1) that he was not heard and (2) certain documents were not given to him even though they were available. He filed two writ petitions. The impugned order inter alia reads,

> "The incumbent appeared before me on 11.2.1993 and he was asked whether he has anything to add to his written explanation. He requested for an adjournment of hearing which is not agreed to as he is repeatedly taking recourse to delay tactics to prolong the enquiry."

At another place in the same order it reads,

> "On 11.2.1993 Sri A. Narayana has submitted an application stating that his Advoate Sri V. Jogayya Sarma is in Delhi and he is returning on Friday i.e., 12.2.1993. Further he has stated that his Advocate requested to postpone the hearing to any Saturday."

12.2.1993 was a Friday and 13.2.1993 would be a Saturday. The case was fixed on 11.2.1993. The petitioner had requested that his counsel was away in Delhi and was returning back on Friday and the case be taken up on Saturday. The case had been pending for years and in my view the request of adjournment for one day was not something which could have jeopardized the whole thing. In my view this was violation of rules of natural justice. In any case if the petitioner was not granted adjournment of one day, he should have

been told the same so that he could have himself made his submissions before the authority concerned. I am not dealing with the case on merits because that may prejudice the authorities as I intend to remand the matter back to the 2nd respondent for passing of fresh orders after hearing the petitioner. Since the matter is pending for a long time, therefore a date is fixed here which is communicated to the petitioner so that he appears on that day along with his counsel.

The writ petition is allowed and the impugned order is set aside. The petitioner is directed to present himself before the 2nd respondent on 16th November,2004 and the 2nd respondent shall pass an order within a week thereafter. A copy of this order be sent to 2nd respondent immediately.

28 .10.2004

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That the rule nisi has been made absolute as above. Witness the Hon'ble Sri Devinder Gupa, Chief Justice, on this the Thursday, the Twenty Eighth day of October, Two Thousand and Four.

ASST..... REGISTRAR

To

1. The District Collector and Magistrate, Nizamabad District, Nizamabad;

2. The Joint Collector and Additional Magistrate, Nizamabad District, Nizamabad;

3. **The District Engineer, Telecommunications, Nizamabad.**

4. **2CCs to Government Pleader for Social Welfare, High Court Buildings, Hyderabad (out).**

5. **A.Narayana, Telephone Operator, Armor, Nizamabad District.**

6. **2 C.D copies.**